

§ 1942.113

the definition of a small community facility project.

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§ 1942.113 Rates and terms.

Rates and terms for loans under this subpart are as set out in § 1942.17(f) of subpart A of this part 1942.

§ 1942.114 Security.

Specific requirements for security for each loan will be included in the letter of conditions. Loans must be secured by the best security position practicable, in a manner which will adequately protect the interest of FmHA or its successor agency under Public Law 103-354 during the repayment period of the loan, and in accordance with the following:

(a) Security must include one of the following:

(1) A pledge of revenue and a lien on all real estate and major equipment purchased or developed with the FmHA or its successor agency under Public Law 103-354 loan; or

(2) General obligation bonds or bonds pledging other taxes.

(b) Additional security may be required as determined necessary by the loan approval official. In determining the need for additional security the loan approval official should carefully consider:

(1) The estimated market value of real estate and equipment security.

(2) The adequacy and dependability of the applicant's revenues, based on the applicant's financial records, the project financial feasibility report, and the project budgets.

(3) The degree of community commitment to the project, as evidenced by items such as active broad based membership, aggressive leadership, broad based fund drives, or contributions by local public bodies.

(c) Additional security may include, but is not limited to, the following:

(1) Liens on additional real estate or equipment.

(2) A pledge of revenues from additional sources.

(3) An assignment of assured income in accordance with § 1942.17(g)(3)(iii)(A)(I) of subpart A of this part 1942.

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(d) Review and approval or concurrence in the State Office is required if the security will not include a pledge of taxes and the applicant cannot provide evidence of the financially successful operation of a similar facility for the 5 years immediately prior to loan application.

(e) Review and concurrence in the National Office is required if the security will not include a pledge of taxes, the applicant cannot provide evidence of the financially successful operation of a similar facility for the 5 years immediately prior to loan application, and the amount of the loan will exceed \$250,000.

(f) Loans under this subpart are subject to the provisions of § 1942.17(g)(1) of subpart A of this part 1942, regarding security for projects utilizing joint financing.

[52 FR 43726, Nov. 16, 1987; 52 FR 47097, Dec. 11, 1987]

§ 1942.115 Reasonable project costs.

Applicants are responsible for determining that prices paid for property rights, construction, equipment, and other project development are reasonable and fair. FmHA or its successor agency under Public Law 103-354 may require an appraisal by an independent appraiser or FmHA or its successor agency under Public Law 103-354 employee.

§ 1942.116 Economic feasibility requirements.

All projects financed under this section must be based on taxes, assessments, revenues, fees, or other satisfactory sources of revenues in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the FmHA or its successor agency under Public Law 103-354 staff and approval official. All applicants will be expected to provide a financial feasibility report. These financial feasibility reports will normally be:

(a) Included as part of the preliminary engineer/architectural report using guide 6 to subpart A of this part

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1942 (available in any FmHA or its successor agency under Public Law 103-354 Office), or

(b) Prepared by the applicant using Form FmHA or its successor agency under Public Law 103-354 1942-54, "Applicant's Feasibility Report."

§ 1942.117 General requirements.

(a) *Reserve requirements.* Loans under this subpart are subject to the provisions of § 1942.17 (i) of subpart A of this part 1942.

(b) *Membership authorization.* The membership of organizations other than public bodies must authorize the project and its financing except the District Director may, with the concurrence of the State Director (with advice of OGC as needed), accept the loan resolution without such membership authorization when State statutes and the organization charter and by-laws do not require such authorization.

(c) *Insurance and bonding.* Loans under this subpart are subject to the provisions of § 1942.17(j)(3) of subpart A of this part 1942.

(d) *Acquisition of land and rights.* Loans under this subpart are subject to the provisions of § 1942.17(j)(4) of subpart A of this part 1942.

(e) *Lease agreements.* Loans under this subpart are subject to the provisions of § 1942.17(j)(5) of subpart A of this part 1942.

(f) *Notes and bonds.* Loans under this subpart are subject to the provisions of §§ 1942.17(j)(6) and 1942.19 of subpart A of this part 1942.

(g) *Public Information.* Loans under this subpart are subject to the provisions of § 1942.17 (j)(9) of subpart A of this part 1942.

(h) *Joint funding.* Loans under this subpart are subject to the provisions of §§ 1942.2 (e) and 1942.17 (j)(11) of subpart A of this part 1942.

§ 1942.118 Other Federal, State, and local requirements.

(a) Loans under this subpart are subject to the provisions of § 1942.17 (k) of subpart A of this part 1942.

(b) An initial compliance review should be completed under subpart E of part 1901 of this chapter.

§ 1942.119 Professional services and borrower contracts.

(a) Loans under this subpart are subject to the provisions of § 1942.17 (l) of subpart A of this part 1942.

(b) The District Director will, with assistance as necessary by the State Director and OGC, concur in agreements between borrowers and third parties such as contracts for professional and technical services. The State Director may require State Office review of such documents in accordance with § 1942.108 (g) of this subpart. State Directors are expected to work closely with representatives of engineering and architectural societies, bar associations, commercial lenders, accountant associations, and others in developing standard forms of agreements, where needed, and other matters to expedite application processing, minimize referrals to OGC, and resolve problems which may arise. Standard forms should be reviewed by and approved by OGC.

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§ 1942.122 Actions prior to loan closing and start of construction.

(a) *Excess FmHA or its successor agency under Public Law 103-354 loan funds.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(1) of subpart A of this part 1942.

(b) *Loan resolutions.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(2) of subpart A of this part 1942.

(c) *Interim financing.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(3) of subpart A of this part 1942.

(d) *Applicant contribution.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(5) of subpart A of this part 1942 this chapter.

(e) *Evidence of and disbursement of other funds.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(6) of subpart A of this part 1942.

(f) *Assurance agreement.* All applicants must execute Form FmHA or its successor agency under Public Law 103-354 400-4, "Assurance Agreement," at or before loan closing.